

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. 04-10,332
:
vs. : CRIMINAL
:
EDWARD DIXON, : Omnibus Pretrial Motion
Defendant :

ORDER

AND NOW, this ___ day of July 2004, after hearing on the Defendant's Omnibus Pretrial Motion, it is ORDERED and DIRECTED as follows:

1. The Court DENIES the Defendant's Motion to Suppress evidence. The Court finds the Defendant was not subject to custodial interrogation. When the Defendant spoke to Trooper Bell on the telephone, the Defendant was in his own residence and Trooper Bell was at the victim's residence. Clearly, the Defendant was not in custody during this conversation. The Court also finds the Defendant was not in custody when he was interviewed at the State Police barracks. The interview took place in an informal setting in the lunchroom with the door open and lasted a short duration, only about 15 minutes. The Defendant was not handcuffed or otherwise physically restrained. The Defendant was orally advised that he was not under arrest and he was free to leave. Furthermore, the Defendant acknowledged during his testimony that he wanted to go to the barracks to give the police his side of the story.

2. With respect to the Petition for Writ of Habeas Corpus, the Court GRANTS the motion with respect to the burglary charge, but DENIES it in all other respects.

3. The Motion for Severance and the related Motion in Limine were addressed by the Court in a separate Order, which was dictated to the court reporter at the

end of the hearing.

By The Court,

Kenneth D. Brown, P.J.

cc: William Kovalcik, Jr., Esquire
William Simmers, Esquire (ADA)
Work file
Gary Weber, Esquire (Lycoming Reporter)